

## **REMARKS**

In the Official Action dated June 10, 2004, the Examiner requested the Cross Reference to Related Applications in the first paragraph in the specification, Claim 2 has been rejected as being a substantial duplicate of Claim 1, Claims 1-11 have been rejected under 35 U.S.C. §103(a) as allegedly unpatentable over McClure et al. (U.S. Patent No. 6,696,464). Claims 1-11 have been rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1, 5, 15, 49 and 50 of U.S. Patent No. 6,696,464. Claims 1-11 have also been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-5 and 7-11 of copending Application No. 10/649,236. Claims 1-11 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-9 of copending Application No. 10/649,227 in view of McClure (6,696,464). Claims 1-11 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-10 of copending Application No. 10/649,265 in view of McClure (6,696,464). Claims 1-11 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of copending Application No. 10/649,216 in view of McClure (6,696,464).

This response addresses each of the Examiner's objections and rejections. Accordingly, the present application is in condition for allowance. Favorable consideration of all pending claims is therefore respectfully requested.

In response, to the objection in the specification, the specification has been

amended to include a Cross Reference to Related Applications and Claims 12-17 have been cancelled without prejudice for being drawn to a non-elected subject matter. Applicants reserve the right to file continuing applications drawn to the deleted subject matter. No new matter has been added and no narrowing amendments have been made. Applicants respectfully request entry of this amendment.

Claim 2 has been rejected as being a substantial duplicate of Claim 1. For the purposes of expediting prosecution, Claim 2 has been cancelled without prejudice thereby rendering this rejection moot. Accordingly, Applicants respectfully request the withdrawal of this rejection.

Claims 1-11 have been rejected under 35 U.S.C. §103(a) as allegedly unpatentable over McClure et al. (U.S. Patent No. 6,696,464). Applicants have submitted a declaration executed by Kim F. McClure, who is a named inventor of the claimed invention. Dr. McClure testifies that the two closest structural compounds between the claimed invention and the '464 patent are 6-[4-(4-Fluoro-phenyl)-oxazol-5-yl]-3-isopropyl-[1,2,4]triazolo[4,3-a]pyridine (Example 12) in the '464 patent and 3-cyclopropyl-6-[4-(2,4-difluoro-phenyl)-oxazol-5-yl]-[1,2,4]triazolo[4,3-a]pyridine (Example 1) in the presently claimed invention.

The McClure declaration further provides comparative data showing that the in vitro human hepatocyte extraction ratio of 0.35 for 3-cyclopropyl-6-[4-(2,4-difluoro-phenyl)-oxazol-5-yl]-[1,2,4]triazolo[4,3-a]pyridine is surprisingly and unexpectedly better than the in vitro human hepatocyte extraction ratio of 0.85 for 6-[4-(4-Fluoro-phenyl)-oxazol-5-yl]-3-isopropyl-[1,2,4]triazolo[4,3-a]pyridine.

Furthermore, McClure et al. do not motivate one skilled in the art to pick and choose from the substituents disclosed in the '464 patent to derive any of the subgeneric species or specific compounds of the presently claimed invention.

In addition, none of the specific compounds of the presently claimed invention is disclosed in McClure et al.

Accordingly, claims 1-11 are patentable over McClure et al. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection under 35 U.S.C. §103(a).

Claims 1-11 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5, 15 49, and 50 of U.S. Patent No. 6,696,464. In response, Applicants will submit a terminal disclaimer in due course in compliance with 37 CFR 1.321(c) signed by a registered attorney of record. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

Claims 1-11 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-5, and 7-11 of copending Application No. 10/649,236. In response, Applicants will submit a terminal disclaimer in due course in compliance with 37 CFR 1.321(c) signed by a registered attorney of record. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

Claims 1-11 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-9 of copending Application No. 10/649,227 in view of McClure (6,696,464). In

response, Applicants will submit a terminal disclaimer in due course in compliance with 37 CFR 1.321(c) signed by a registered attorney of record. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

Claims 1-11 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-10 of copending Application No. 10/649,265 in view of McClure (6,696,464). In response, Applicants will submit a terminal disclaimer in due course in compliance with 37 CFR 1.321(c) signed by a registered attorney of record. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

Claims 1-11 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of copending Application No. 10/649,216 in view of McClure (6,696,464). In response, Applicants will submit a terminal disclaimer in due course in compliance with 37 CFR 1.321(c) signed by a registered attorney of record. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

Thus, in view of the foregoing amendments and remarks, the application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,



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